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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/790,114

03/02/2004

Yasuhiro Urata

249501US90

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02/05/2009

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ALEXANDRIA, VA 22314

EXAMINER

ZENATI, AMAL S

ART UNIT

PAPER NUMBER

2614

NOTIFICATION DATE

DELIVERY MODE

02/05/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/790,114	<b>Applicant(s)</b> URATA ET AL.	
	<b>Examiner</b> AMAL ZENATI	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Consider **Claims 1-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Olschwang (provisional application No. 60/452526)** in view of **Cohen et al (US Patent No.: 6,385,308 B1)**.

Consider **claim 1 and 5 Olschwang** clearly shows and discloses the Fun-Dial customized ring back tone solution (a tone information providing system) comprising when A (calling-terminal) calls B (called-terminal), SSP (receiving means) receives a call (calling information) from A (calling-terminal); SSP sends an IN message to the Fun-dial SCP, based on the called party B number; The SCP indicates that A and B numbers (tone information including called-terminal specifying information for specifying the communication terminal and called-terminal specifying information for specifying a communication terminal for a calling destination); The Content Delivery Platform VoiCD at this point will identify the subscriber B and the caller A (tone information selecting means) that has been stored (tone information storing means) then the Content Delivery Platform will transmit (transmitting means) the content tone to A. (Page 2 line 6- 12 and page 10 line 1-8, figure "Network Topology" in page 3, figure "flow details" in page 4, figure "Ring back Tone Basic Call Flow scenario" in page 10); The VoiCD system database has

the following (tone information recording means, tone information storing means, and past-record selecting means); it is used for storing subscriber related information, content storing and content related information (relating the calling-terminal specifying information, the called-terminal specifying information and the tone information) (Page 32 section 4.2.5 line 1-2 and section 4.2.6 line 12);

**Olschwang** clearly shows that the user can receive information regarding the tone information; VoiCD Call Data Records CDRs (past-record information storing means) are generated for each successful call for both caller A or subscriber B for transmission ring tones information after receiving the request process (request receiving means) (Page 32, section 4.2.6 lines 20- 23 and page 36 section 6.1.2, line 8-15); however, **Olschwang** does not specifically disclose time information indicating time when user talked through the communication terminal.

In the same field of endeavor, **Cohen** clearly discloses that time information indicating time when user talked through the communication terminal; the record means stored in the processor for each designated calling party define the parameters (such as called-terminal specifying information for specifying the communication terminal and called-terminal specifying information for specifying a communication terminal for a calling destination, and time information) for each personalized announcement (abstract; col. 7, lines 25-28; and col. 8, lines 15-30).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add the time information indicating time when user talked through the communication terminal to the tone information and then store these pieces of information in the record means (past-record information storing means) as taught by Cohen in Olschwang, in order to determine when the user talked through the communication terminal and store time information with relate pieces of information (abstract, col. 8, lines 15-20).

Consider **Claims 3 and 6, Olschwang and Cohen** clearly shows the tone information providing system according to claim 1, wherein time information relating to the time when the transmitting means has transmitted the tone information is related to the calling-terminal specifying information, the called-terminal specifying information and the tone information, and these pieces of information are stored in the past-record information storing means (Cohen: col. 8, lines 15-30; and claim 11)

Consider **Claims 4 and 7, Olschwang and Cohen** clearly show The tone information providing system according to claim 1, wherein the disclosure request includes time information relating to the time when the transmitting means has transmitted the tone information (Cohen: col. 8, lines 15-30; abstract; and Olschwang: paragraph 4.2.4).

### ***Response to Arguments***

3. The present Office Action is in response to Applicant's amendment filed on October 16, 2008. Applicant has amended **claims 1 and 5**; claims **1 – 7** are now pending in the present application.
4. The Examiner's rejection under 35 USC § 112 second paragraph is withdrawn since the claim has been amended as suggested by the Examiner.
5. Applicant's arguments with respect to amended claims 1 and 5 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amal Zenati whose telephone number is 571-270-1947. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571- 272- 7499. The fax phone number for the organization where this application or proceeding is assigned is 571- 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/CURTIS KUNTZ/  
Supervisory Patent Examiner, Art Unit 2614

/Amal Zenati/  
Patent Examiner, Art Unit 2614

January 30, 2009